

LOS ANGELES COUNTY DISTRICT ATTORNEY CHARGE EVALUATION WORKSHEET	<input type="checkbox"/> Further investigation requested. <input type="checkbox"/> Probation Violation in lieu of filed. <input checked="" type="checkbox"/> Prosecution declined.	DA CASE NO. 24029832	Page 1 of 7
		POLICE CASE NO. (DR OR URN NO.) 403-00076-2003-054	Date: September 22, 2004
		DA OFFICE CODE J.S.I.D. 04-0141R	

SUSPECT DATA

NO.	SUSPECT NAME	BKNG NO.	CHARGE	REASON
01	URRUTIA, LARRY	N.I.C.	PC149	B - Insufficient evidence
02	CALLAHAN, ERIC	N.I.C.	PC149	B - Insufficient evidence
03	MORRIS, DANIEL	N.I.C.	PC149	B - Insufficient evidence
04	PEREZ, ARTHUR	N.I.C.	PC149	B - Insufficient evidence

DESCRIPTION

SEE ATTACHED.

STEVE COOLEY District Attorney	COMPLAINT DEPUTY (PRINT) CHRISTINA V. FLEMING/smm	DEPUTY CODE 155309	COMPLAINT DEPUTY (SIGNATURE) <i>Christina Fleming</i>	REVIEWING DEPUTY <i>[Signature]</i>
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In submitting this matter for consideration of a complaint, written reports of substantially all available evidence (except as to the oral information, if any, purporting to have been given by me and which is fully and correctly stated above) have been submitted to the above-named Deputy (copies of which are attached hereto) except the following:

The disposition of this matter will be final unless the commanding officer requests reconsideration of the case, stating his reasons on the back of this form.

MAILED 09/28/04
OFFICER - SGT. RON SCHRAM

L.A.S.D. I.C.I.B.

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles County Sheriff's Deputies Larry Urrutia, #475322, Eric Callahan, #439115, Daniel Morris, #436075, and Arthur Perez, #432986, committed an assault under color of authority upon Fernando Galaz, in violation of Penal Code Section 149. For the reasons set forth below, this office declines to initiate criminal proceedings.

FACTUAL ANALYSIS

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office on February 13, 2004, by Sergeant Ron Schram, LASD, Internal Criminal Investigations Bureau (ICIB). The involved deputies' departmentally compelled statements were not reviewed.

On October 10, 2003 at approximately 10:50 p.m., Los Angeles County Patrol Helicopter, Aero Unit 21, received a LoJack radio signal from a stolen vehicle.¹ Aero Unit 21 advised all Pico Rivera Sheriff's Station units that the reported stolen vehicle was in the area of Rosemead Boulevard and Whittier Boulevard in Pico Rivera. The stolen vehicle was a blue 2000 Toyota Avalon, license number 4NFF620.

Deputy Callahan, assigned to the Pico Rivera station, monitored the radio broadcast. As Callahan drove northbound on Rosemead Boulevard toward Olympic Boulevard he saw a blue Toyota Avalon at the intersection. Aero Unit 21 advised Callahan that the car was the vehicle from the LoJack return. As Callahan drove closer to the vehicle, the driver, subsequently identified as Fernando Galaz, looked toward him before immediately accelerating northbound on Rosemead Boulevard. Callahan noted that the license plate number was 4NFF620 and advised Sheriff Communications Center (SCC) that he was in pursuit of a stolen vehicle. He then activated his lights and siren.

Galaz led Callahan on a high speed chase through city streets. He failed to stop for stoplights and drove erratically posing a danger to others. Galaz turned eastbound on Reichling Lane and was observed by Deputy Urrutia who had been monitoring the chase.² Urrutia watched as Galaz slowed his vehicle and opened the driver's side door as if he was preparing to flee on foot. In response, Urrutia opened his door and prepared to exit. Galaz appeared to notice Urrutia's black and white patrol unit and sped up, driving directly at Urrutia. Urrutia, fearing for his safety, pulled his left leg back into his car as Galaz rammed the driver's side door slamming it shut.

¹The LoJack system is a vehicle recovery system that is activated when a theft is reported to the police. Law enforcement authorities who are equipped with LoJack vehicle tracking units, in their police cruisers and aviation units, use the LoJack system to track and recover stolen vehicles.

²Deputy Urrutia's patrol unit was equipped with a LoJack tracking unit. Urrutia was advised by SCC that only three units were to be involved in the actual pursuit. As a result Urrutia paralleled the pursuit and stayed in the area in case his assistance was needed.

Urrutia advised SCC that Galaz had just rammed his radio car and the pursuit continued. Galaz continued driving erratically throughout the streets of the surrounding neighborhood as he was pursued by several black and white patrol units. The pursuit ended when Galaz failed to successfully negotiate a turn onto Rushmore Street. As he turned, he lost control and crashed in the front yard of 9676 Rushmore Street. He got out of the stolen vehicle and fled on foot toward 9657 Rushmore Street. Callahan got out of his patrol car and gave chase accompanied by Deputy Morris who was also involved in the pursuit.

Galaz ran alongside the residence down a narrow 5' wide path. He came to a locked wooden fence which he fell head first into before falling to the ground. He got up and attempted to scale the fence but failed. When the deputies caught up with Galaz, Deputy Callahan ordered him to the ground. When Galaz turned around he raised his clenched fists and assumed a combative stance. He lunged at Morris who grabbed his left arm and directed him to the ground. Once he was on the ground he resisted the deputies' efforts to handcuff him and ignored commands to cease his resistance.

Callahan was not able to gain control of Galaz' right arm. As Callahan repositioned himself Galaz lifted his torso off the ground. Due to the tight confines, Callahan opted not to use his oleoresin capsicum spray fearing he and Morris would be affected. Instead he punched Galaz on the right side of his torso with his fist to gain control.

During the struggle, Deputy Morris could feel that Galaz was pulling his left arm back toward his chest area. As a result he punched Galaz on his left side and lower back several times. Morris' partner, Deputy Perez, arrived on the scene and saw that Morris did not have control of Galaz' left arm. Perez feared Galaz may have been armed and struck him 3 to 4 times on the left side of his torso as he ordered Galaz to put his hands behind his back. Galaz ignored all commands to cooperate. Deputy Canfield arrived on the scene and eventually the four deputies were able to successfully handcuff Galaz and stand him on his feet.

Galaz was standing between Callahan and Morris when he suddenly lunged toward Morris with his head as if attempting to headbutt him. Morris, who had been holding Galaz' left arm by the bicep and forearm area, leaned away from Galaz and released his arm in the process. Callahan then reached across Galaz' body and grabbed his left shoulder as Urrutia, using the end of his flashlight, jabbed Galaz in the torso area two to three times. Galaz was then escorted to the patrol car without further incident.

During the apprehension of Galaz a KCBS news helicopter was overhead filming the incident. However, the area where the arrest actually occurred was poorly lit which made it difficult to see what was occurring.

Sergeant Robin Limon, the field sergeant at the time of the incident, was the last patrol unit involved in the pursuit. She arrived at the terminus and saw the deputies in foot

pursuit of Galaz. After she had cleared Galaz' vehicle she saw the deputies walking back toward her with Galaz in handcuffs. She approached the deputies to check on their welfare. She asked whether force was used during the arrest of Galaz. Callahan told her that after Galaz failed to climb over the fence, he put his hands on his head and went down to his knees. He said that he and Morris then grabbed Galaz and they went down onto the wet slippery grass. Galaz was then handcuffed. The deputies did not report using any force nor did anyone report witnessing force. Later Limon spoke to Deputies Morris and Perez. They told her essentially the same version as Callahan had told her.

Sergeant Robert Lawrence was assigned to Safe Streets Bureau's Pico Rivera/Norwalk Gang Enforcement Team. He responded to the terminus of the pursuit because two of his team members had been involved in the pursuit, Deputies Morris and Perez. He contacted both deputies and asked whether any force had been used on Galaz. Morris and Perez both said, "No."³

Later at the Pico Rivera Station Sergeant Limon and Lieutenant Gary Kimble met with the deputies to debrief the pursuit. Kimble specifically asked the deputies whether any force was used. The deputies remained silent, looked at the floor, and avoided eye contact. Kimble admonished the deputies that if force was used it had to be reported and properly documented. No one made any disclosures at that time.

Based on the deputies' demeanor, Kimble and Limon went to the booking area to interview Galaz. Galaz told them that he had been kicked and punched by the deputies. Kimble and Limon observed two or three circular bruises on Galaz' chest/abdomen area. Galaz said the marks were caused by a flashlight. Kimble did not observe any visible redness, abrasions, bumps or scrapes to his face. However, Galaz had what appeared to be a swollen nose as a result of striking his face on the steering wheel of the car when he crashed.

Limon returned to the briefing room and confronted the deputies with Galaz' allegation of force and the marks on his chest. She told them, "You need to think about whatever you need to tell me and come back to me." She then left them alone in the briefing room. Approximately 35 minutes later the deputies asked to speak with Limon and told her that force was used during the arrest of Galaz.

On October 13, 2003, Galaz told ICIB investigators that he was physically assaulted by the deputies during his arrest. Galaz admitted that he was involved in the vehicle pursuit and that during the pursuit he ran into a patrol car. He also admitted that he fled on foot after he disabled the car he was driving. However, he claimed that once he was cornered in the area where he was arrested, he was cooperative and submissive.

³ After Galaz was in custody Sergeant Lawrence observed a small amount of blood around Galaz' nose. Sergeant Limon inspected Galaz' vehicle and observed a drop of blood on the steering wheel next to the cruise control. It was determined that the blood belonged to Galaz' who struck his face/nose on the steering wheel during the collision.

Galaz said that after he failed to climb over the wooden fence, he turned around and saw several deputy sheriffs running toward him. At that point he said he got down on the ground, placed both of his hands behind his head, and laid face down. He said he offered no resistance as the deputies kicked and punched him without provocation. The beating described by Galaz included blows to the back of his head, a kick to his right cheek and mouth area, kicks in the ribs, and punches on the left and right side of his torso. In addition, he described being stomped on the base of his neck and upper back.

He added that after he was handcuffed and standing up, two or three deputies stepped aside allowing another deputy to approach him and hit him in the stomach with an unknown object three times. Galaz, who is 5'-8" tall, described his assailant as being a white male, 36 years old, clean shaven, blondish-brown hair, and a little taller than him. Deputy Urrutia is a 6'-2" Hispanic male with brown hair.

When he was shown six-packs, which included photographs of the involved deputies, he was unable to correctly identify anyone with the exception of Deputy Urrutia who he incorrectly identified as one of the deputies who lifted him to his feet after he was handcuffed. It was actually Deputies Callahan and Morris who lifted him to his feet.

When Galaz was interviewed on October 13, 2003, there was no apparent bruising, swelling, or injury to the right side of Galaz' face where he claimed he was kicked by a shod foot. In addition, investigators examined Galaz' t-shirt which he wore during the incident. Specifically, the t-shirt was examined for the presence of shoe polish transfers or black marks and footprints on the back consistent with Galaz' allegations. No footprints were observed and only one black mark, consistent with shoe polish, was noted on the bottom left side of the front of the shirt.

ICIB investigators canvassed the neighborhood and spoke to several residents. There were no witnesses to the actual arrest.

CONCLUSION

According to the law in California, a peace officer may make an arrest without a warrant whenever the officer has reasonable cause to believe that the person to be arrested has committed a felony or a misdemeanor in his or her presence. A peace officer making an arrest may use reasonable force to make the arrest, prevent an escape, or overcome resistance from the person being arrested. A peace officer may use reasonable force to defend himself or herself against an assault if there are grounds for believing that bodily injury is about to be inflicted on him or her.

There is insufficient evidence upon which to base a prosecution of the deputies. Fernando Galaz' accusation that he was the victim of excessive force lacks corroboration. By all accounts Galaz' efforts to evade the police included a high speed pursuit which involved the ramming of a patrol car. The vehicle pursuit did not end until Galaz was involved in a second collision which disabled his vehicle. Galaz did not surrender at that

time despite helicopters overhead and several patrol units closing in. Instead, he led deputies on a brief foot pursuit which only ended because of his inability to climb over a fence.

Galaz maintained that once he failed to scale the fence, he surrendered. He claimed that the deputies, without provocation, brutally assaulted him by punching, kicking, and stomping him. The deputies, however, said that Galaz' efforts to escape continued after he failed to get over the fence and that he did not follow repeated commands to cease all resistance as they attempted to handcuff him. However, it is noteworthy that shortly after the arrest Callahan told Sergeant Limon that after Galaz failed to get over the fence, he put his hands on his head and went down on his knees. At that point he was grabbed by Morris after which they all fell down on the wet slippery grass where Galaz was ultimately handcuffed. For unknown reasons, Callahan left out the salient details of what transpired between the time they ended up on the ground and the time that the handcuffs ended up on Galaz' wrists. Unfortunately, because of the deputies' lack of candidness, it is impossible to deduce exactly what happened, particularly in light of the final version which the deputies wrote in their reports.⁴

Even if one were to accept the original version wherein Galaz placed his hands on his head as he turned to face the deputies, and that he then got down on his knees, these facts alone do not necessarily lead to the conclusion that Galaz did not resist the deputies' efforts to handcuff him once they were on the ground. A trier of fact may reasonably find that Galaz' determination to escape resumed thus justifying the deputies' use of reasonable force. In addition, Galaz' physical appearance was not consistent with the beating he described. His face, particularly the right side where he was allegedly kicked, appeared uninjured. His white t-shirt was examined and found to have only grass stains on the front and back and a small black mark on the front near the bottom. There were no footprints or shoe polish transfer marks observed on the back or sides of his t-shirt. Such evidence would have corroborated his claim of being kicked and stomped.

Galaz also alleged that after he was handcuffed, two to three deputies stepped aside allowing a white deputy, who was a little taller than him, to walk up to him, and jab him two to three times in the chest area with a flashlight. Deputy Urrutia, who is Hispanic and approximately half-a-foot taller than Galaz, admitted that he jabbed Galaz with his flashlight. However, he said that this occurred because Galaz was attempting to headbutt Deputy Morris.

In the present case the deputies initially failed to disclose to their supervisors that there were multiple uses of force employed during the arrest of Galaz. However, Galaz' allegation that he was beaten is not supported by the physical evidence observed and gathered at the scene. Aside from this accusation, there is no evidence that the events did not unfold as ultimately reported.

⁴ Deputies Callahan and Morris each wrote a report which described Galaz as aggressively turning towards them with raised fists after he failed to get over the fence. There is no mention of Galaz placing his hands on his head and getting on his knees as Callahan initially told Sergeant Limon.

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Therefore, we decline to initiate criminal proceedings against the deputies. We are closing our file and will take no further action in this matter.